

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

MARVIN RAY BERRY

PLAINTIFF

VS.

CIVIL ACTION NO. 3:12cv270-FKB

RON WOODALL, M.D., et al.

DEFENDANTS

ORDER

This is an action brought by a state prisoner pursuant to 42 U.S.C. § 1983 for denial of medical treatment. Presently before the Court are Plaintiff's motion for leave to amend his complaint [74] and motion for preliminary injunction [77]. Having considered the motions, the Court rules as follows.

The motion to amend is hereby granted, and the complaint is deemed amended to include the allegations set forth in the motion.

In order to obtain injunctive relief, a plaintiff must satisfy the stringent test set forth in *Mississippi Power & Light Co. v. United Gas Pipe Co.*, 760 F.2d 618 (5th Cir. 1985) (citing *Canal Authority of State of Florida v. Callaway*, 489 F.2d 567 (5th Cir. 1974)). That test requires that a plaintiff seeking injunctive relief establish (1) a substantial likelihood that he will prevail on the merits; (2) a substantial threat that he will suffer irreparable injury if the injunction is not granted; (3) that the threat and injury to the plaintiff outweighs the threat and harm the injunction may do to the defendants; and (4) that granting the injunction will not disserve the public interest. *Id.* at 572.

In his motion for preliminary injunction, Plaintiff makes numerous allegations as to prison officials' failure to provide medical treatment. However, all allegations of serious medical needs concern past incidents; the only ongoing conditions of which he complains

concern diet and exercise. The Court concludes that these concerns fail to rise to the level of a substantial threat of irreparable injury. Furthermore, he has not shown a substantial likelihood that he will prevail on the merits of his claims. For these reasons, Plaintiff's motion for injunctive relief is denied.

SO ORDERED this the 11th day of August, 2014.

/s/ F. Keith Ball

UNITED STATES MAGISTRATE JUDGE